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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte UUSILEHTO JANNE

Appeal 2008-1553
Application 09/942,382
Technology Center 3600

Decided:¹ March 10, 2009

Before HUBERT C. LORIN, DAVID B. WALKER, and BIBHU R.
MOHANTY *Administrative Patent Judges*.

WALKER, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF THE CASE

The Appellant seeks our review of the Examiner's final rejection of claims 1-14 under 35 U.S.C. § 134 (2002). We have jurisdiction under 35 U.S.C. § 6(b) (2002). We reverse.

Appellant claims a method, device, and system for loading money from money loading means to money depositing means, wherein money is deposited in electrical format (Specification 1:3-7). Representative claim 1 reads as follows:

1. A method for loading money from money loading means to money depositing means, wherein money is deposited in electrical format, the method comprising:

defining a loading condition for loading money to the money depositing means;

wirelessly transmitting an inquiry message at intervals by the money loading means; and

examining whether the inquiry message transmitted by the money loading means can be received by the money depositing means;

wherein if the examination indicates that the inquiry message transmitted by the money loading means can be received by the money depositing means, the method further comprises examining said loading condition, wherein if the examination indicates that the loading condition is fulfilled, the loading takes place automatically.

THE REJECTION

The references set forth below are relied upon as evidence in support of the rejections:

Ferreira	US 6,115,601	Sep. 5, 2000
Kawan	US 6,442,532	Aug. 27, 2002

Claims 1-14 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Ferreira in view of Kawan.

ISSUE

The Appellant argues that the combination of Ferreira and Kawan does not teach or suggest wirelessly transmitting an inquiry message at intervals by the money loading means and examining whether the inquiry message transmitted by the money loading means can be received by the money depositing means. The Examiner found that Ferreira teaches examining whether the inquiry message transmitted by the money loading means can be received by the money depositing means. The Examiner concedes that Ferreira does not specifically disclose an inquiry message transmitted at intervals by the money loading means, but found that Kawan teaches signals that are inquiry messages are transmitted to a financial institution or financial network to inquire about transactions taking place that affect the user's accounts. The dispositive issues are whether the Appellant has shown that the Examiner erred in finding that it would have been obvious to one of ordinary skill in the art at the time the invention was

made to modify Ferreira to include the wireless terminal transmits signals of Kawan and whether the combination meets the claim limitation of wirelessly transmitting an inquiry message at intervals by the money loading means.

FINDINGS OF FACT

We find the following enumerated findings to be supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1. Ferreira is directed to a mobile communications system wherein communications credits are stored in a secure module of a mobile communication appliance. Credits are reloaded over-the-air (OTA) from a reload server (Ferreira, Abstract). Typically, the secure module is triggered by the mobile communication appliance in response to a user instruction for reloading credits (Ferreira, col. 8, ll. 22-24). The initiative for reloading may be taken by a user of the system or automatically by the communication appliance or the secure module within the appliance, e.g., when the balance has dropped below a predetermined threshold (Ferreira, col. 5, ll. 48-52).
2. Kawan is directed to a financial information and transaction system utilizing wireless communication in connection with portable terminals. In this system, a terminal is connected to the

financial institution via a wireless or cellular telephone hook-up. Smart cards are utilized to verify authorization for transactions, and may also maintain a secure record of available funds (Kawan, Abstract).

3. Kawan teaches that signals provided from a wireless service provider are received by a transmitter/receiver portion of a terminal and signals from the transmitter/receiver portion of the terminal are provided via a wireless service provider. The terminal may be used to wirelessly receive and transmit data to and from a financial institution or financial network. This data may be read and written from and onto a smart card that is inserted into a smart reader (Kawan, col. 4, ll. 50-60).
4. Kawan further teaches that once authorization has been obtained, the user may determine the user's current account balance and/or request that value be added to the card. In executing these requests, the terminal exchanges encoded information by wireless transmission with a financial network (Kawan, col. 5, ll. 14-18).

PRINCIPLES OF LAW

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said

subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1734 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of ordinary skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 127 S.Ct. at 1734 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”)

In rejecting claims under 35 U.S.C. § 103(a), the examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the appellant. *Id.* at 1445. *See also Piasecki*, 745 F.2d at 1472. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See Oetiker*, 977 F.2d at 1445; *Piasecki*, 745 F.2d at 1472.

ANALYSIS

The Appellant argues that the combination of Ferreira and Kawan does not teach or suggest wirelessly transmitting an inquiry message at intervals by the money loading means and examining whether the inquiry message transmitted by the money loading means can be received by the

money depositing means as required by Claim 1 (Br. 4). Specifically, the Appellant argues

In Ferreira, the secure module (30) is triggered by the mobile communication appliance (10) (i.e. the mobile phone) for reloading credits when the balance has dropped below a predetermined threshold or in response to user instructions. A reload request message (50) is generated and authenticated by the secure module (30) and transmitted by the mobile communication appliance (10) to the reload server (20) (Col. 5, l. 52-55). This is not the same as what is called for in claim 1.

(Br. 5).

The Examiner found that the limitation of examining whether the inquiry message transmitted by the money loading means can be received by the money depositing means was met by the teaching in Ferreira of the reload server comprising an authenticator for authenticating the messages exchanged with the secure module (Answer 4, citing Ferreira, col. 3 and col. 7, ll. 16-57). The Examiner concedes that Ferreira does not specifically disclose an inquiry message transmitted at intervals by the money loading means, but found that Kawan teaches signals that are inquiry messages transmitted to a financial institution or financial networks to inquire about transactions taking place that affect the user's accounts (Answer 5, citing Kawan, col. 4, ll. 50-60, col. 5). The Examiner found that it is obvious that (1) the signals taught by Kawan are in fact inquiry messages (Answer 5);

and (2) the inquiry signals will be transmitted to the financial institution at intervals due to financial transactions taking place (Answer 6).

The Appellant argues that Kawan only discloses signals sent after the user initiates a transaction as shown in Kawan, at col. 5, ll. 14-18, which recites that the user may determine the user's current account balance and/or request that value be added to the card. According to the Appellant, there is nothing in Kawan that discloses or suggests that the "signals" are "inquiry messages" that are transmitted at intervals by the money loading means and received by the money depositing means and that receipt of the inquiry depositing means causes automatic loading of money if a loading condition is fulfilled as received in Appellant's claim 1 (Reply Br. 2-3).

The Examiner found that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ferreira to include that the wireless terminal transmits signals which include data relating to potential transactions, i.e., checking account balances, as was taught by Kawan, in order to inquire about account balances before electronic money can be added (reloaded) onto the smart card (Answer 6).

The Appellant argues that this statement is not supported by Ferreira or Kawan, because neither reference discloses an "inquiry message" as defined in claim 1. The Appellant further argues that Ferreira does not relate to messages being transmitted from a "money loading means" to a "money depositing means", but rather to data being exchanged between a terminal and a financial institution (Reply Br. 3). According to the Appellant, in

order to apply the signals transmitted in Kawan to Ferreira to arrive at what is claimed by Appellant, the nature of the data exchange or signal in Kawan would have to be changed significantly as the signals in Kawan are user initiated signals sent from the terminal to the financial institution and claim 1 requires inquiry messages to be transmitted from a money loading means to a money depositing means. The Appellant thus argues that the combination of Kawan with Ferreira is not a simple substitution of one element for another or the mere application of a known technique to Ferreira, because neither of the cited references disclose an “inquiry message” as claimed because of the significant changes required to the signal of Kawan (Reply Br. 3-4).

The Appellant points to automated teller machine 15 as corresponding structure in the Specification for a money loading means and to cash card 1 in the Specification as the corresponding structure for a money depositing means (Br. 2). We find this to be consistent with the Specification and the claims, as well as the Examiner’s interpretation. The Examiner is relying on messages transmitted from the terminal to the financial institution to read on the claimed wirelessly transmitting an inquiry message at intervals by the money loading means and examining whether the inquiry message transmitted by the money loading means can be received by the money depositing means.

A message from the terminal is a message from the money depositing means and not from the money loading means, and so would not satisfy the

disputed claim limitation. Even accepting what the Examiner claims to be obvious, the Examiner has not established a prima facie case of obviousness as to the claim limitations to wirelessly transmitting an inquiry message at intervals by the money loading means, and examining whether the inquiry message transmitted by the money loading means can be received by the money depositing means. The Appellant thus has shown that the Examiner erred in rejecting claim 1 and claim 2-8, which depend therefrom, as obvious over Coutts.

Independent Claim 9 requires “means for receiving an inquiry message transmitted at intervals by the money loading means.” As discussed above in connection with the rejection of claim 1, neither Ferreira nor Kawan teaches receiving an inquiry message transmitted at intervals from the money loading means. For the reasons stated above in connection with the rejection of claim 1, the Appellant has shown that the Examiner erred in rejecting claim 9, and claims 10-13, which depend therefrom, as obvious over Ferreira in view of Kawan.

Independent claim 14 requires “means for transmitting an inquiry message at intervals from the money loading means.” For the reasons stated above in connection with the rejection of claim 1, the Appellant has shown that the Examiner erred in rejecting claim 14 as obvious over Ferreira in view of Kawan.

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CONCLUSIONS

We conclude that the Appellant has shown that the Examiner erred in finding that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferreira to include the wireless terminal transmits signals of Kawan and in finding that the combination meets the claim limitation of wirelessly transmitting an inquiry message at intervals by the money loading means.

DECISION

The decision of the Examiner to reject claims 1-14 under 35 U.S.C. § 103(a) as unpatentable over Ferreira in view of Kawan is reversed.

REVERSED

JRG

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